

**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF MASSACHUSETTS**

C.A. NO. 05-40075FDS

DANIEL HOUDE,)
Plaintiff,)
v.)
ROBERT TURGEON, STEPHEN GUNNERSON,)
KEVIN JOHANSON, MATTHEW D'ANDREA,)
BRIAN HALLORAN, THOMAS DUFFY,)
SEAN MCCANN and CITY OF WORCESTER)
Defendants.)

PLAINTIFF'S SUPPLEMENTAL PROPOSED JURY INSTRUCTIONS

The Plaintiff respectfully requests that, in addition to the ordinary and usual instructions offered to the jury, and those requested on January 23, 2008, the jury be provided the following proposed jury instructions at trial.

Plaintiff's Supplemental Proposed Jury Instruction No. 1

Civil Rights Conspiracy

A conspiracy is “a combination of two or more persons acting in concert to commit an unlawful act...the principal element of which is an agreement between the parties ‘to inflict a wrong against or injury upon another’ and ‘an overt act that results in damages’.”¹ In the context of a civil rights claim under Section 1983, “the gist” of the cause of action is “the deprivation and not the conspiracy.”² Conspiracy “is merely the mechanism by which to obtain the necessary state action...or to impose liability on one defendant for the acts of the others.”³ It is not necessary to show an express agreement to prove a conspiracy.⁴ Instead, “sufficient circumstantial evidence of a conspiracy among the officers to violate [plaintiff’s] constitutional rights will carry the day.”⁵

¹ *Santiago v. Fenton*, 891 F.2d 373, 389 (1st Cir. 1989).

² *Landrigan v. City of Warwick*, 628 F. 2d 736, 742 (1st Cir. 1980) (internal citations omitted).

³ *Id.*

⁴ *Earle v. Beboit*, 850 F.2d 836, 845 (1st Cir. 1988).

⁵ *Jesionowski v. Beck*, 937 F. Supp. 95, 105 (D. Mass. 1996).

Respectfully submitted,

PLAINTIFF DANIEL HOUDE,

By his attorney,

/s/ Timothy J. Perry

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Certificate Regarding Service

I hereby certify that this document was served upon all counsel of record by the Court's ECF system.

Date: January 23, 2008

/s/ Timothy J. Perry

Timothy J. Perry